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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,255	11/27/2000	Michio Morishita	PM-275350	8085

7590 05/04/2004

James E. Ledbetter  
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.  
1615 L Street, N.W.  
Suite 850  
Washington, DC 20036

EXAMINER

ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/701,255

Applicant(s)

MORISHITA, MICHIO

Examiner

M. Alexandra Elve

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/02, 11/00</u> | 6) <input type="checkbox"/> Other: ____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timko (US Pat. 5,849,250) in view of Ishizu et al. (US PG 2002/0096225 A1).

Timko discloses a catalytic converter system for exhaust emissions. The system has an outer canister type shell and an inner pipe, which both are tapered at the ends. A catalytic matrix is contained within the inner pipe. Insulation is placed between the inner and outer pipes. (abstract, figures 4-6, col. 3, lines 25-48, col. 4, lines 14-21, col. 7, lines 5-55, col. 8, lines 6-33)

Timko does not teach the use of a spinning process. Ishizu et al. discloses a catalytic container having an inner and outer pipe or a double pipe structure. The container has tapered cone sections at the two ends. The double pipe structure is constructed by using spinning of the concentrically disposed inner and outer pipes. Spinning has the benefit that double pipe-tapered structures may be formed without cracking and a good superposed fit is generated between the pipes. (abstract, 0005, 0007, 0008, 0010, 0016, 0027, 0030, 0031, 0036, 0037, 0041-0043, 0045, 0048, 0051, 0059, 0062)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to use spinning, as taught by Ishizu et al. in the Timko system because a better product is formed, that is, a double pipe structure with a good fit and absence of cracks in the tapered sections.

Additionally, Timko discloses a product substantially similar to a claimed product, differing only in the manner by which it is produced. It has been held that one of ordinary skill in the art at the time of the invention would have considered the claimed product to have been obvious because of the similarity in properties. The burden falls to the applicant to show that any process steps associated with the claimed product result in a materially different product from those of the prior art, because there is nothing in the record before the examiner to reasonably conclude that applicant's product differs in kind from those obtained by the reference. See *In re Brown* 173 USPQ 685 and *In re Fessmann* 180 USPQ 324.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention to shape, size or form the prior art product into any shape, size or form, because a change of shape, size or form has been held an obvious variant in any art. See *In re Rose* 105 USPQ 137.

### ***Conclusion***

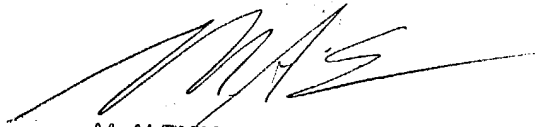
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See US PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 2, 2004.



M. ALEXANDRA ELVE  
PRIMARY EXAMINER